

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawaii**

180-Day Exp. Date: April 18, 2006

January 27, 2006

**Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii**

REGARDING: After the Fact Conservation District Use Application (CDUA)
OA-3268 for the Halau Ku Mana New Century Public Charter
School

APPLICANT: Darryl Wong of Paradise Park, Inc.
Leaseholder

LANDOWNER: Roman Catholic Church of Hawaii

LOCATION: Manoa, Island of Oahu

TMKs: (1) 2-9-054:018

AREA OF PARCEL 12.30 acres

USE: 8,395 square feet

SUBZONE: General

BACKGROUND:

The Board of Land and Natural Resources (Board) approved Conservation District Use Permit (CDUP) OA-30 on March 16, 1966 for the subject area for a botanical and zoological garden for recreational purposes. This use was known as Paradise Park. The park closed in 1994, with the exception of the Tree Tops restaurant, which is still in operation. In August 2004, the Halau Ku Mana (HKM) public charter school began operations and occupies the third floor level of an existing 4-story building without Board approval. To resolve this matter, a Conservation District use violation fine was paid and an After the Fact Conservation District Use Application was filed.

DESCRIPTION OF AREA AND CURRENT USE

The site is located at 3737 Manoa Road on the island of Oahu identified as TMK (1) 2-9-054:018. The 12.3-acre parcel known as Paradise Park is located at the head of the valley, at the end of Manoa Road. Previously it was a visitor attraction and the site contains the existing zoological/botanical gardens. There are three major existing structures on the parcel. A 300-seat partially open amphitheatre with storage, office, snack shop and restrooms; a single story partially enclosed cultural pavilion and the main building that is a four-story structure with orientation and conference rooms, former gift and snack shops, offices and exhibition rooms, and the Tree Tops restaurant. The HKM Charter School occupies the third floor of the main building (**Exhibit 1, 2, 3 &4**).

There are five minor existing structures on the parcel: a maintenance workshop, a quarantine station, a greenhouse, a scenic observatory and restroom facilities. There are approximately 12 birdcages throughout the parcel.

PROPOSED USE:

According to the applicant, the Charter School occupies an area of 8,395 square feet of the third floor of the main building. There are 4 classrooms, a computer lab, a staff office, an Administrative Office, teacher's offices, lobby and reception area, a lunchroom and restroom facilities. No construction, grading or landscaping is proposed. All existing buildings, structures, facilities and park grounds will remain unchanged (**Exhibit 5**).

HKM is a State of Hawaii Department of Education (DOE) charter school that serves approximately 90 students in grades 6-12. In addition to DOE requirements, the school provides a Hawaiian culturally- and environmentally-based educational curriculum. Students also maintain the Park's existing greenhouse to propagate native Hawaiian plant species and small gardens of dry land taro and sweet potato for botanical studies.

SUMMARY OF COMMENTS:

This application was referred to the Department of Land and Natural Resources Divisions of Forestry and Wildlife and the Oahu District Land Office, for review and comment. The application was also referred to the Office of Hawaiian Affairs, the Department of Health, the Department of Education, the Office of Environmental Quality Control, the City & County of Honolulu Department of Planning, the Manoa Neighborhood Board and the Lyon Arboretum. In addition, the application was also sent to the nearest public library, the Manoa Branch Library, to make this information readily available to those who may wish to review it.

Responses were received and have been summarized from the following agencies:

DEPARTMENT OF LAND AND NATURAL RESOURCES:

DIVISION OF FORESTRY AND WILDLIFE

No Comments

OAHU DISTRICT LAND OFFICE

No Comments

OFFICE OF HAWAIIAN AFFAIRS

Our Office has no objection to the application and encourages reuse of existing structures for programs such as this. If the project goes forward, should iwi or Native Hawaiian cultural or traditional deposits be found during ground disturbance, work will cease, and the appropriate agencies will be contacted.

Applicant's Response

Be assured that should iwi or Native Hawaiian cultural or traditional deposits be found during ground disturbance, work will cease, and the appropriate agencies will be contacted pursuant to applicable law.

ANALYSIS:

After reviewing the application, by correspondence dated October 21, 2005 the Department finds that:

1. The proposed use is an identified land use in the Resource subzone of the Conservation District, pursuant to §13-5-22, Hawaii Administrative Rules (HAR), P-6, PUBLIC PURPOSE USES, D-1, "land uses undertaken by the State of Hawaii or the counties to fulfill a mandated governmental function, activity, or service for public benefit and in accordance with public policy and the purpose of the conservation district. Such land uses may include transportation systems, water systems, communications systems, and recreational facilities." Please be advised, however, that this finding does not constitute approval of the proposal;
2. Pursuant to §13-5-40, HAR, a Public Hearing will not be required;
3. The action is exempt from the requirements to prepare an Environmental Assessment pursuant to §11-200-8, HAR, Exempt Classes of Action, (1) Operations, repairs, or

maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing;

4. Pursuant to documentation dated February 23, 2005, the City and County of Honolulu has determined that the subject area is not within the Special Management Area.

The following discussion evaluates the merits of the proposed land use by applying the criteria established in Section 13-5-30, HAR.

1. *The proposed land use is consistent with the purpose of the Conservation District.*

The purpose of the Conservation District is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety, and welfare. With the charter school's Hawaiian cultural-environmentally based educational curriculum, and its ongoing work-study relationship with the nearby Lyon Arboretum, students are encouraged to preserve, protect and to live in harmony with our island ecosystem and resources through proper management and use that promotes long term sustainability. The charter school curriculum allows the students to apply good conservation practices.

2. *The proposed land use is consistent with the objectives of the subzone of the land on which the use will occur.*

The objective of the Resource subzone is to develop, with proper management, areas to ensure sustained use of the natural resources of those areas. The proposed use utilizes unused space within an existing structure. No construction, grading or landscaping is proposed. All existing buildings, structures, facilities and park grounds will remain unchanged.

3. *The proposed land use complies with provisions and guidelines contained in Chapter 205A, HRS, entitled "Coastal Zone Management" where applicable.*

The subject area is not within the Special Management Area (SMA). Staff believes that the project complies with provisions and guidelines contained in Chapter 205, HRS.

4. *The proposed land use will not cause substantial adverse impacts to existing natural resources within the surrounding area, community, or region.*

The proposed land use will not cause substantial adverse impacts to existing natural resources within the surrounding area, community, or region. Staff believes that the proposed use will have no or negligible overall impact to the natural resources of the area.

5. *The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding area, appropriate to the physical conditions and capabilities of the specific parcel or parcels.*

Because of the minimal impact on the physical and natural environment, Staff believes the proposed use is compatible with the locality and surrounding area and appropriate to the physical conditions and capabilities of the parcel.

6. *The existing physical and environmental aspect of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, which ever is applicable.*

The utilization of the third floor area within the existing main building will have very little impact on the surrounding areas. No public views of the project area exist from any public road or hiking trail.

7. *Subdivision of the land will not be utilized to increase the intensity of land uses in the Conservation District.*

There will be no subdivision of land.

8. *The proposed land use will not be materially detrimental to the public health, safety and welfare.*

Staff believes the proposed improvements will not have a detrimental impact on public health, safety or welfare.

DISCUSSION:

The applicant seeks to remedy the unauthorized use within an existing building with an After the Fact permit. No construction, grading or landscaping is proposed. All existing buildings, structures, facilities and park grounds will remain unchanged. The Department did not receive any significant comments or concerns regarding the applied use.

Staff believes the proposal makes good use of an existing space within an existing site that will encourage and further the charter school's goals of instilling a Hawaiian culturally and environmentally based educational curriculum. However, Staff must caution the applicant that this use is solely for the occupation of the third floor of the main building for classroom use. Should the Charter School or Paradise Park, Inc. wish to place or erect any solid material; construct, reconstruct, demolish or alter any structure, building or facility; grade, remove, harvest

or extract any natural resource within the subject area, approval from the Department or Board of Land and Natural Resources must be gained prior to initiation.

Staff, therefore, recommends as follows:

RECOMMENDATION

That the Board of Land and Natural Resources APPROVE the After the Fact use of existing facilities for the Halau Ku Mana Charter School located at the former Paradise Park site, 3737 Manoa Road on the island of Oahu identified as TMK (1) 2-9-054:018 subject to the following conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, State and county governments, and the applicable parts of Section 13-5-42, HAR;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. The applicant shall comply with all applicable Department of Health administrative rules;
4. The applicant understands and agrees that this permit applies to this for as long as the Halau Ku Mana Charter School uses the site;
5. The Department or Board of Land and Natural Resources must approve any and all proposed land uses at the subject site prior to initiation;
6. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard within a time frame and manner prescribed by the Chairperson. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents for any interference, nuisance, harm or hazard relating to or connected with the implementation of corrective measures to minimize or eliminate the interference, nuisance, harm or hazard;

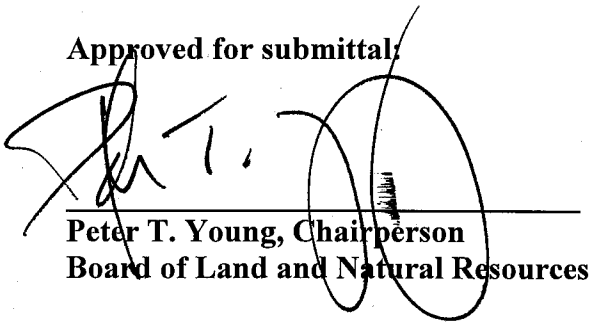
7. The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
8. In issuing this permit, the Department and Board have relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
9. In the event that unrecorded historic remains (i.e., artifacts, or human skeletal remains) are inadvertently uncovered during operations, all work shall cease in the vicinity and the applicant shall immediately contact the State Historic Preservation Division;
10. The applicant shall comply with all permit conditions of CDUP OA-30;
11. Other terms and conditions as may be prescribed by the Chairperson; and
12. That failure to comply with any of these conditions may render this Conservation District Use Permit null and void.

Respectfully submitted,



K. Tiger Mills, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:



Peter T. Young, Chairperson
Board of Land and Natural Resources

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EXHIBIT

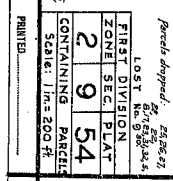
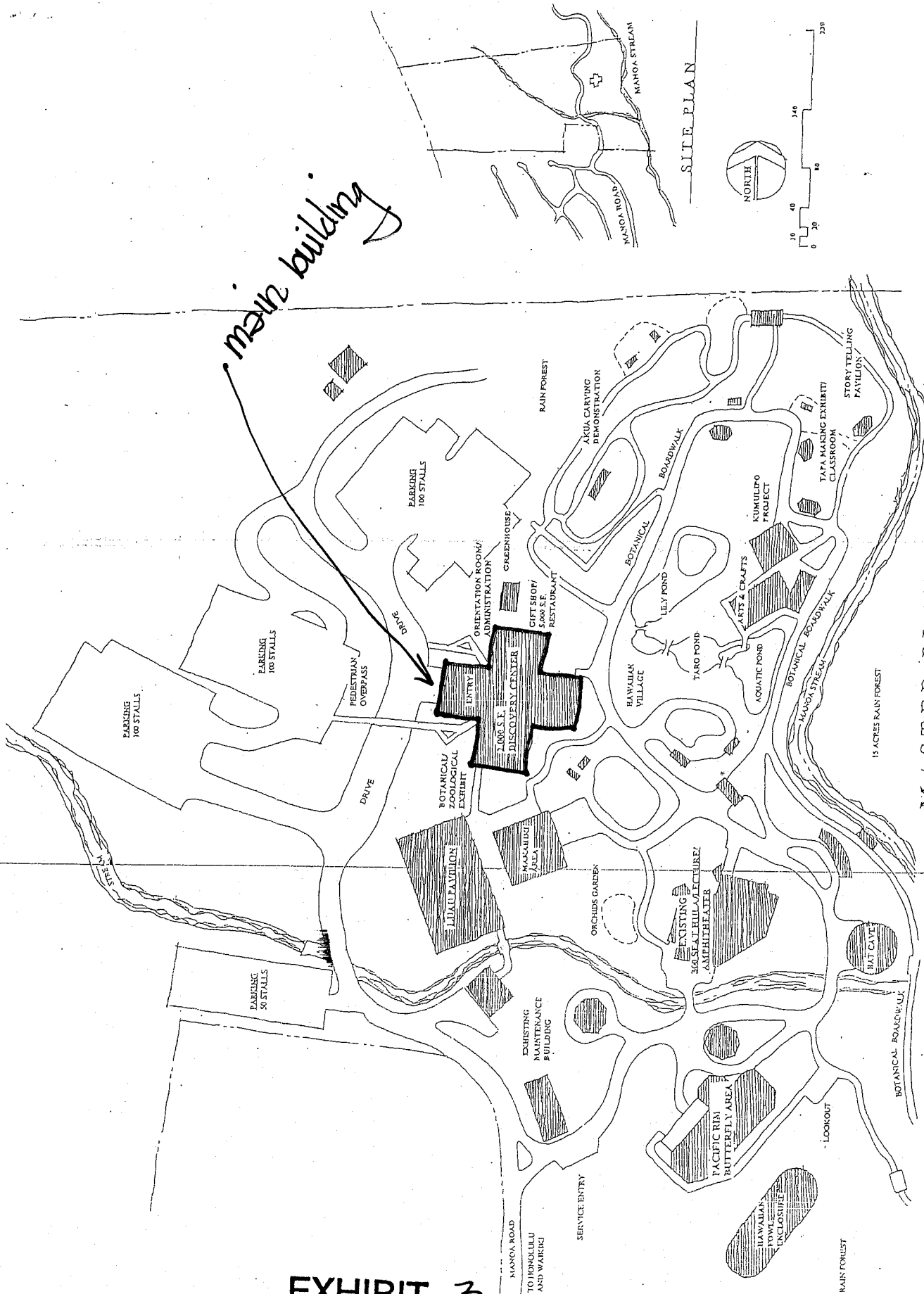
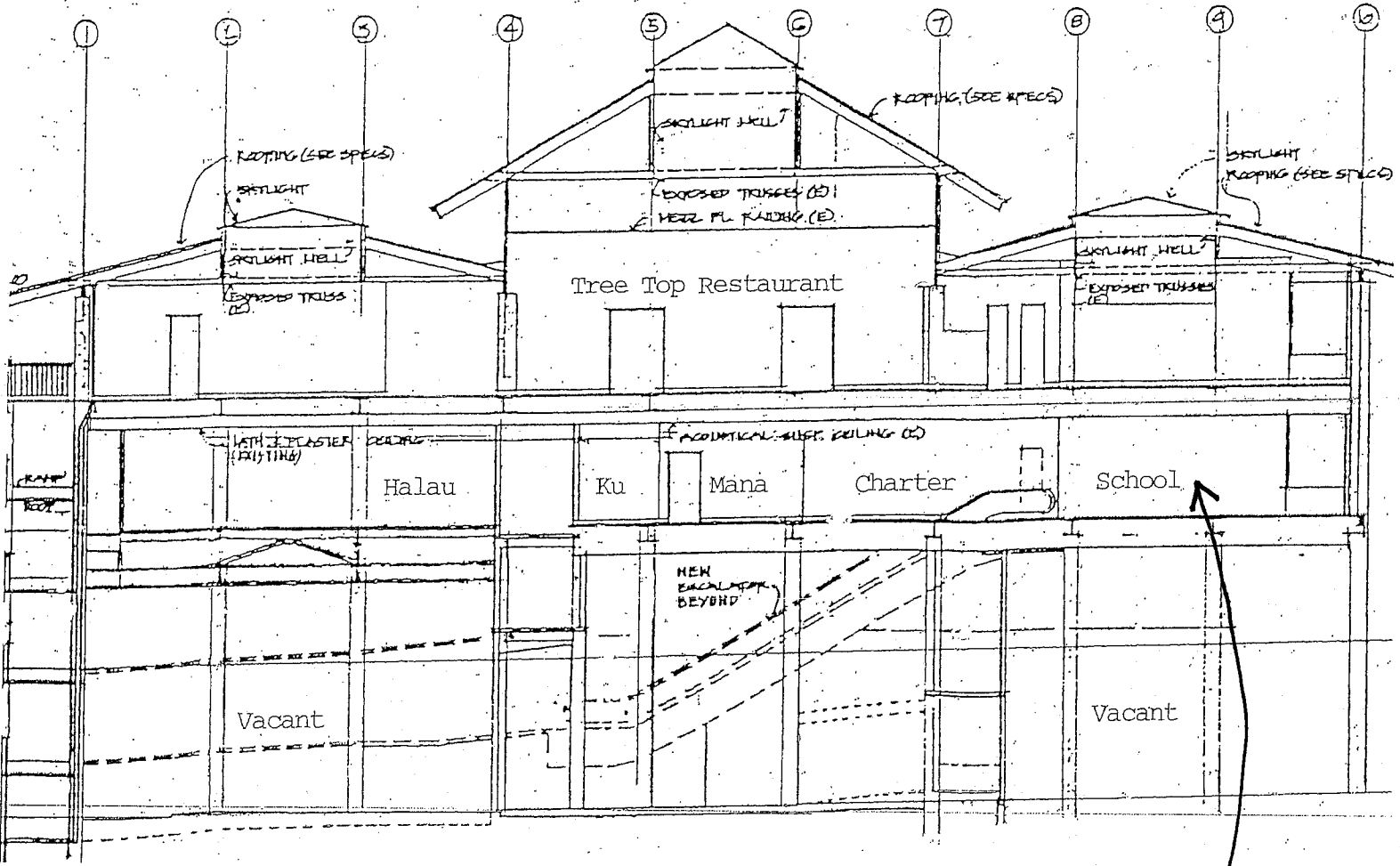
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EXHIBIT 3

main building



MASTER PLAN
Original Paradise Park Plan, Manoa Valley, Oahu



SECTION A-A
SCALE: 1/8" = 1'-0"

3rd floor
of
main building

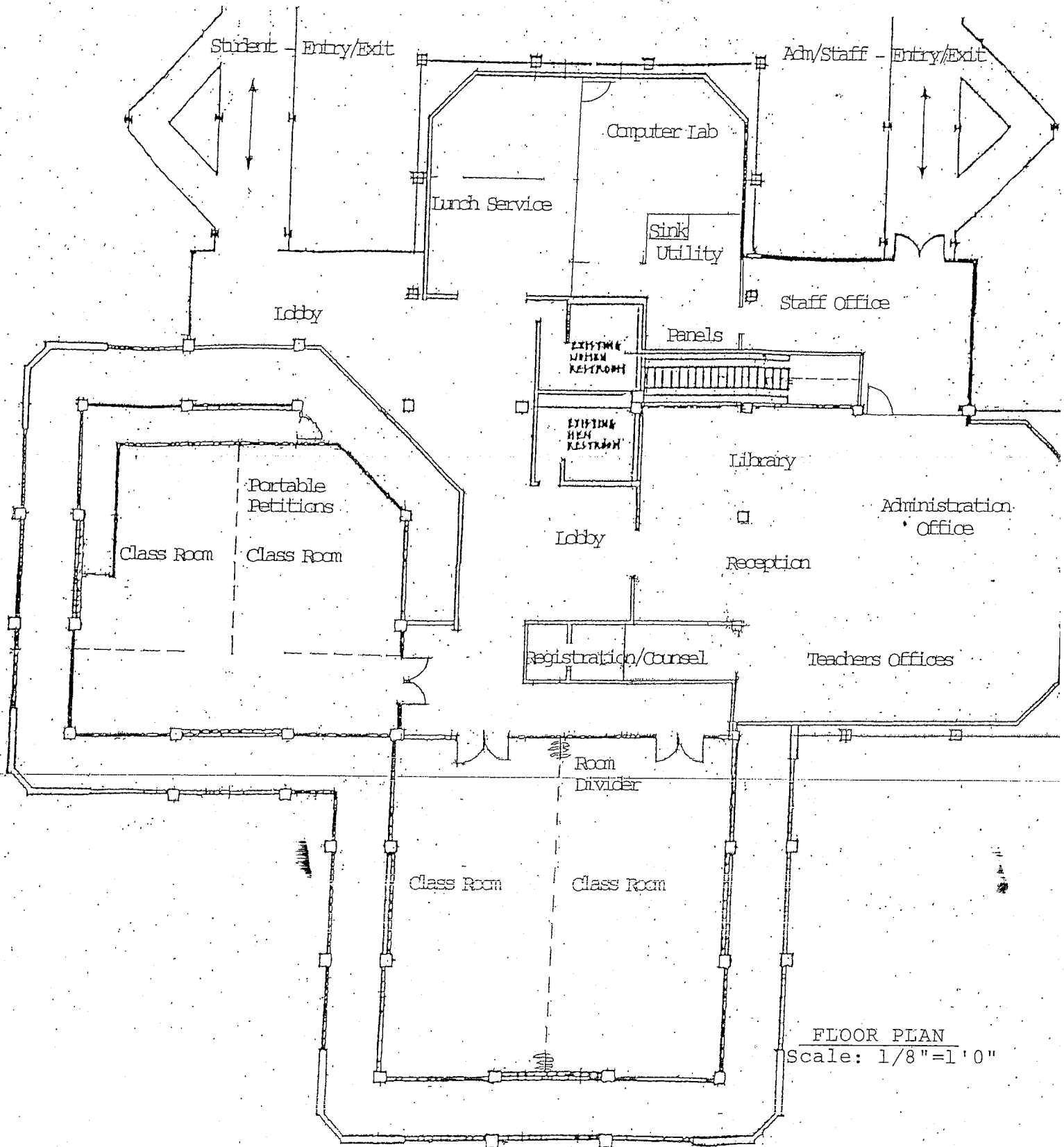
FRONT ELEVATION

Scale: 1/8" = 1'-0"

EXHIBIT 4

Paradise Park Tropical Rainforest, Manoa Valley
Waikiki Ahupua'a, Kona Mokuaina, Oahu Moku Puni

HALAU KU MANA - PUBLIC CHARTER SCHOOL



FLOOR PLAN
Scale: 1/8" = 1'0"